

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
2003 DEC 29 P 12:40
U.S. DISTRICT COURT
DISTRICT OF MASS.

PETER A. GROOME,

Petitioner,

v.

TIMOTHY HALL,

Respondent.

Civil Action No. 03-12397-PBS

**RESPONDENT'S MOTION TO DISMISS PETITION
FOR WRIT OF HABEAS CORPUS AS TIME-BARRED**


Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, the respondent, Timothy Hall, respectfully submits this motion to dismiss the petition for writ of habeas corpus filed by the petitioner, Peter A. Groome. The petition must be dismissed as time-barred under 28 U.S.C. § 2244(d), the statute of limitations for federal habeas corpus petitions, which is contained in the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). As is set forth in greater detail in the accompanying memorandum of law, the time frame for this petition to be filed began to run on January 3, 2002, and expired on November 20, 2003. However, the petition was not filed in this Court until November 26, 2003, five (5) days after the statute of limitations had expired. Accordingly, the petition must be dismissed as time-barred.¹

¹ Respondent's remaining defenses are not addressed here because the running of the statute of limitations mandates dismissal of the petition. In the event that this Court declines to dismiss the petition as time-barred, the respondent reserves the right, and requests the opportunity, to file an answer and assert all other applicable defenses.

WHEREFORE, the respondent respectfully requests that this Court dismiss this habeas petition on the grounds that it is time-barred.

Respectfully submitted,

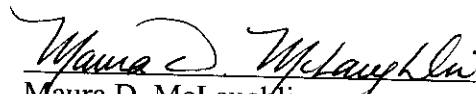
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Dated: December 24, 2003

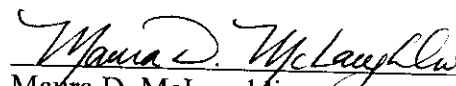
Certification Pursuant to Local Rule 7.1

I hereby certify that on December 23, 2003, I conferred (via telephone) in good faith with Joseph S. Berman, Esq., counsel for the petitioner, in an effort to resolve or narrow the issues raised in this motion.


Maura D. McLaughlin

Certificate of Service

I hereby certify that on December 24, 2003, I caused a copy of the above document to be served via first class mail, postage prepaid, upon Joseph S. Berman, Esq., counsel for the petitioner, Berman & Dowell, 210 Commercial Street, Boston, Massachusetts 02109.


Maura D. McLaughlin